

## **REMARKS**

### **I. Introduction**

With the addition of new claims 30 and 31, claims 1 to 31 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority. Regarding the certified copies of the priority documents, the Office Action Summary indicates that some of the certified copies of the priority documents have been received from the International Bureau. However, the present application claims priority only to German Patent Application No. 103 16 477.4, a certified copy of which was submitted on March 30, 2004, and the present application is not a national stage application. Applicants therefore respectfully request that the Office acknowledge receipt of the certified copy of German Patent Application No. 103 16 477.4 in the next Office communication.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statements, PTO 1449 papers and cited references.

### **II. Rejection of Claim 21 Under 35 U.S.C. § 112**

As regards the rejection of claim 21 under 35 U.S.C. § 112, second paragraph, the Examiner will note that claim 21 has been amended herein without prejudice to change "the route" to --a route--. In view of the foregoing, withdrawal of this rejection is respectfully requested.

### **III. Rejection of Claims 10 to 14 and 27 Under 35 U.S.C. § 102(e)**

Claims 10 to 14 and 27 were rejected under 35 U.S.C. § 102(e) as anticipated by European Published Patent Application No. 0 955 210 ("Shelton et al."). Applicants respectfully submit that the present rejection should be withdrawn for at least the following reasons.

As an initial matter, European Published Patent Application No. 0 955 210 does not constitute prior art against the present application under 35 U.S.C. § 102(e), since it is not a U.S. patent, a U.S. published patent application or a published PCT application. Accordingly, the present rejection should be withdrawn for this reason alone.

Furthermore, claim 10 relates to a communications system for a motor vehicle and recites that the communications system includes an arrangement configured to detect at

least one of a first traffic situation and a second traffic situation and to define whether radio communications are capable or incapable of being performed in accordance with the detection. Claim 10 has been amended herein without prejudice to recite that the arrangement is configured to evaluate, as a function of a **predefined route**, data from at least one of a navigation system, a locating system, at least one trial sample vehicle and digital road map to **predetermine** first sections of a route with first traffic situations and/or second sections of a route with second traffic situations. While the Office Action refers to paragraph [0023] of Shelton et al. as allegedly describing these features, it is respectfully submitted that Shelton et al. do not disclose, or even suggest, at least the foregoing features in paragraph [0023] or otherwise. In this regard, Shelton et al. merely describe a “real-time” system that identifies a relevant condition based on **instantaneous** data. There is no mention whatsoever of a **predefined route** and no mention whatsoever of **predetermined** sections of a route with first or second traffic situations. As such, it is respectfully submitted that Shelton et al. do not anticipate claim 10 or claims 12 to 14, which ultimately depend from claim 10.

Claim 27 relates to a method for operating a communications system in a motor vehicle and recites that the method includes evaluating data as a function of a **predefined route** to detect first and/or second sections of a route and to define whether radio communication is capable or incapable. As set forth above, Shelton et al. make no mention whatsoever of evaluating data as a function of a **predefined route**. Rather, Shelton et al. describe evaluation of **instantaneous** data. As such, it is respectfully submitted that Shelton et al. do not anticipate claim 27.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

#### **IV. Rejection of Claims 1, 4 to 9, and 23 to 24 Under 35 U.S.C. § 103(a)**

Claims 1, 4 to 9, and 23 to 24 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 6,408,177 (“Parikh et al.”) and U.S. Patent Application Publication No. 2001/0028703 (“Katseff et al.”). It is respectfully submitted that the combination of Parikh et al. and Katseff et al. does not render unpatentable the present claims for at least the following reasons.

Claim 1 relates to a user interface for a communications system in a motor vehicle. Claim 1 recites that the user interface includes an arrangement configured to restrict, in a restrictive operating mode, a functionality of a radio interface to a wireless communication to a radio communications network. Claim 1 further recites that the user

interface includes an arrangement configured to display, when there is a call in the restrictive operating mode, the restrictive operating mode to a caller and to make available to the caller a plurality of communications functions, at least one communications function selectable by the caller. Furthermore, claim 1 recites that the user interface includes an arrangement configured to activate a communications function selected by the caller. In stark contrast to the foregoing, Parikh et al. describe a system in which various options are presented to a subscriber, i.e., the recipient, rather than a caller. Katseff et al. do not cure this critical deficiency. That is, neither Parikh et al. nor Katseff et al. disclose, or even suggest, alone or in combination, a user interface in which selectable communications functions are presented to a caller and are selectable by a caller. As such, it is respectfully submitted that the combination of Parikh et al. and Katseff et al. does not render unpatentable claim 1 or claims 4 to 9, which depend from claim 1.

As regards claims 23 and 24, claim 23 recites that a method includes offering a plurality of communications functions to a caller when there is an incoming call in an operating mode with restricted functionality. As more fully set forth above, the combination of Parikh et al. and Katseff et al. does not disclose, or even suggest, such a feature. Accordingly, it is respectfully submitted that the combination of Parikh et al. and Katseff et al. does not render unpatentable claim 23 or claim 24, which depends from claim 23.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

#### **V. Rejection of Claims 2 to 3 Under 35 U.S.C. § 103(a)**

Claims 2 to 3 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Parikh et al., Katseff et al. and in U.S. Patent Application Publication No. 2004/0242285 ("Farshi"). It is respectfully submitted that the combination of Parikh et al., Katseff et al. and Farshi does not render unpatentable the present claims for at least the following reasons.

Claims 2 to 3 depend from claim 1 and therefore include all of the features recited in claim 1. As more fully set forth above, the combination of Parikh et al. and Katseff et al. does not disclose all of the features recited in claim 1. Farshi has not been asserted to overcome the shortcomings of Parikh et al. and Katseff et al. As such, it is respectfully submitted that the combination of Parikh et al., Katseff et al. and Farshi does not render unpatentable claims 2 to 3 for at least the reasons more fully set forth above in support of the patentability of claim 1.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

**VI. Rejection of Claims 15 and 20 to 22 Under 35 U.S.C. § 103(a)**

Claims 15 and 20 to 22 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Shelton et al. and Parikh et al. It is respectfully submitted that the combination of Shelton et al. and Parikh et al. does not render unpatentable the present claims for at least the following reasons.

Claims 15 and 20 to 22 depend from claim 10 and therefore include all of the features recited in claim 10. As more fully set forth above, Shelton et al. does not disclose all of the features recited in claim 10. Parikh et al. has not been asserted to overcome the shortcomings of Shelton et al. As such, it is respectfully submitted that the combination of Shelton et al. and Parikh et al. does not render unpatentable claims 15 and 20 to 22 for at least the reasons more fully set forth above in support of the patentability of claim 10.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

**VII. Rejection of Claim 16 Under 35 U.S.C. § 103(a)**

Claim 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Shelton et al., Parikh et al. and U.S. Patent Application Publication No. 2004/0121783 ("Chua et al."). It is respectfully submitted that the combination of Shelton et al., Parikh et al. and Chua et al. does not render unpatentable the present claims for at least the following reasons.

Claim 16 depends from claim 10 and therefore include all of the features recited in claim 10. As more fully set forth above, Shelton et al. does not disclose all of the features recited in claim 10. Parikh et al. and Chua et al. have not been asserted to overcome the shortcomings of Shelton et al. As such, it is respectfully submitted that the combination of Shelton et al., Parikh et al. and Chua et al. does not render unpatentable claim 16 for at least the reasons more fully set forth above in support of the patentability of claim 10.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

**VIII. Rejection of Claims 17 to 19 and 28 to 29 Under 35 U.S.C. § 103(a)**

Claims 17 to 19 and 28 to 29 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Shelton et al. and U.S. Patent Application Publication No. 2005/0075119. It is respectfully submitted that the combination of Shelton et al. and U.S. Patent Application Publication No. 2005/0075119 does not render unpatentable the present claims for at least the following reasons. U.S. Patent Application Publication No. 2005/0075119 was published on April 7, 2005 from U.S. Patent Application No. 10/410,740, filed on April 10, 2003. The present application was filed on March 30, 2004 and claims priority to Application No. 103 16 477.4, filed in the Federal Republic of Germany on April 9, 2003, which is *before* the April 10, 2003 filing date of U.S. Patent Application Publication No. 2005/0075119. A claim of priority to German Application No. 103 16 477.4 was made, *inter alia*, in the “Declaration and Power of Attorney” document submitted on June 25, 2004, and a certified copy of German Application No. 103 16 477.4 was submitted on March 30, 2004. A certified English-language translation of German Application No. 103 16 477.4 is submitted herewith.

In view of all of the foregoing, it is respectfully submitted that the present rejection has been obviated, and withdrawal of this rejection is respectfully requested.

**IX. Rejection of Claims 25 to 26 Under 35 U.S.C. § 103(a)**

Claims 25 to 26 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Parikh et al., Katseff et al. and Shelton et al. It is respectfully submitted that the combination of Parikh et al., Katseff et al. and Shelton et al. does not render unpatentable the present claims for at least the following reasons.

Claims 25 to 26 depend from claim 23 and therefore include all of the features recited in claim 23. As more fully set forth above, the combination of Parikh et al. and Katseff et al. does not disclose all of the features recited in claim 23. Shelton et al. has not been asserted to overcome the shortcomings of the combination of Parikh et al. and Katseff et al. As such, it is respectfully submitted that the combination of the combination of Parikh et al., Katseff et al. and Shelton et al. does not render unpatentable claims 25 to 26 for at least the reasons more fully set forth above in support of the patentability of claim 23.

**X. New Claims 30 and 31**

New claims 30 and 31 have been added herein. It is respectfully submitted that claims 30 and 31 add no new matter and are fully supported by the present application,

including the Specification. Since claims 30 and 31 depend from claim 1, it is respectfully submitted that claims 30 and 31 are patentable over the references relied upon for at least the same reasons more fully set forth above in support of the patentability of claim 1.

**XI. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Dated: *May 30, 2006*

Respectfully submitted,

By: *Cliff Ulrich*  
Clifford A. Ulrich  
Reg. No. 42,194

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200  
**CUSTOMER NO. 26646**